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Cardenas Markets LLC

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

AURELIO INFANTE LANDIN, individually,  
Plaintiff,  
vs.  
CARDENAS MARKETS LLC, a foreign  
limited-liability Company; DOES 1 through 10;  
and ROE ENTITIES 11 through 20, inclusive  
jointly and severally,  
Defendants.

Case No. 2:21-cv-01815-<sup>CDS</sup>~~REF~~-BNW<sup>1</sup>

**JOINT PRETRIAL ORDER**

After pretrial proceedings in this case,

**IT IS ORDERED.**

**I.**

This is an action for: personal injuries related to an alleged slip and fall incident at the grocery store Cardenas. Plaintiff, AURELIO INFANTE LANDIN ("Plaintiff") has filed a Complaint [ECF 2, Exhibit A] against Cardenas with causes of action for negligence, including negligence per se, and sought general damages, special damages, costs of this suit, attorney's fees, prejudgment interest, and any other relief that the Court deems just and proper. Defendant, CARDENAS MARKETS LLC

<sup>1</sup> Counsel is reminded, this case is assigned to Judge Cristina D. Silva. All documents must bear the correct case number 2:21-cv-01815-CDS-BNW. ECF Nos. 30, 35, 38.

1 (“Cardenas”), filed an Answer [ECF 2, Exhibit F], has asserted affirmative defenses, and sought that  
 2 Plaintiff take nothing by way of his Complaint, for the cost of suit incurred herein, for attorney’s fees  
 3 and costs, and for such other and further relief as the Court deems just and proper.

## 4 **II.**

5 Statement of jurisdiction: Plaintiff, AURELIO INFANTE LANDIN, is and was at all relevant  
 6 times herein a resident of the State of Nevada, County of Clark. Defendant, CARDENAS  
 7 MARKETS LLC, and its parent companies are incorporated in the State of Delaware. Removal is  
 8 appropriate pursuant to 28 U.S.C. §1441(b) because there is diversity of citizenship sufficient to  
 9 justify removal in that Plaintiff AURELIO INFANTE LANDIN is a citizen of the State of Nevada  
 10 and Defendant CARDENAS MARKETS, LLC is a citizen of the State of Delaware, County of New  
 11 Castle. For purposes of civil actions otherwise removable solely on the basis of the jurisdiction under  
 12 28 U.S.C. §1332(a), “the citizenship of defendants sued under fictitious names shall be disregarded”,  
 13 and the citizenship of Defendants DOES I through X, inclusive and ROE CORPORATIONS I  
 14 through X are therefore disregarded.

## 15 **III.**

16 The following facts are admitted by the parties and require no proof: all facts related to  
 17 jurisdiction are deemed admitted and require no proof. All other facts must be admitted into  
 18 evidence.

## 19 **IV.**

20 The following facts, though not admitted, will not be contested at trial by evidence to the  
 21 contrary: On August 24, 2019, Cardenas operated a grocery store located at 2545 S. Eastern Ave.,  
 22 Las Vegas, NV 89169 at which an incident occurred involving Plaintiff. Furthermore, that Cardenas  
 23 holds a legal duty to maintain the subject grocery store in a manner as to provide a safe environment  
 24 for their invited guests.

## 25 **V.**

26 The following are the issues of fact to be tried and determined at trial. [Each issue of fact  
 27 must be stated separately and in specific terms:

28 A. That due to Cardenas’ alleged negligence Plaintiff was injured as a result of a slip and

fall incident;

B. That Plaintiff's alleged general damages were a direct and proximate result of the slip and fall incident;

C. That Plaintiff's alleged injuries and medical treatment were a direct and proximate result of the slip and fall incident;

D. That Plaintiff's alleged miscellaneous expenses were a direct and proximate result of the slip and fall incident;

E. That Plaintiff's alleged incidental damages were a direct and proximate result of the slip and fall incident;

F. That Plaintiff's medical expenses were reasonable and customary in the present jurisdiction.

#### VI.

The following are the issues of law to be to be tried and determined at trial. [Each issue of law must be stated separately and in specific terms]:

A. That Plaintiff was an invitee at the Cardenas store in question on the day of the incident;

B. That Plaintiff's designated experts are qualified to render their opinions.

#### VII.

(a) The following exhibits are stipulated into evidence in this case and may be so marked by the clerk

#### Plaintiff:

NO.	DOCUMENT	BATES
1.	Receipt of purchase on day of incident	PLTF-0001
2.	Cardenas corporate number given to Plaintiff	PLTF-0002
3.	Nevada Pain Care - Records and billing statements dated 08/28/2019 – 09/22/2021	PLTF-NVPC-0001 – PLTF-NVPC-0059
4.	Nevada Pain Care – Future cost letter for Lumbar MBN Bil L3, L4, L5 dated 08/12/2021	PLTF-NVPC-0060 - PLTF-NVPC-0061

5.	Nevada Pain Care – Future cost letter for Cervical MBN Bil C2, C3, C4, C5 dated 10/19/2021	PLTF-NVPC-0062 - PLTF-NVPC-0063
6.	Las Vegas Radiology - Records and billing statements dated 09/16/2019	PLTF-LVR-0001 – PLTF-LVR-0008
7.	CVS Pharmacy billing statements	PLTF-CVS-0001 – PLTF-CVS-0004
8.	East Desert Inn Wellness Center - Records and billing statements dated 10/11/2019 – 05/08/2020	PLTF-EDIW-0001 - PLTF-EDIW-0138
9.	Enrico Fazzini, D.O – Records and billing statements dated 12/12/2019 – 02/05/2020	PLTF-EF-0001 – PLTF-EF-0008
10.	Pueblo Medical Imaging - Billing statement and Imaging Report dated 12/23/2019	PLTF-PMI-0001 – PLTF-PMI-0003
11.	Sunset Pain Surgery Center – Billing statement dated 07/22/2021	PLTF-SPSC-0001
12.	Nevada Pain Care - Records and billing dated 06/08/2022 – 9/28/2022	PLTF-NVPC0064-0080
13.	Nevada Pain Care Cost estimate & Lein Acknowledgement dated 9/28/2022	PLTF 00083
14.	Sunset Pain Surgery Center – Billing statement dated 07/22/2021 – 08/30/2022	PLTF-SPSC-0002 – PLTF 00084

**Defendant:**

No.	Document Description	Bates
1.	Map of Cardenas Store #38	DEF000001
2.	Inspection Log for 8/24/2019	DEF000002 - DEF000018
3.	Defendant's Insurance Policy	DEF000019 - DEF000111
4.	Customer Incident Report	DEF000112
5.	5 color photos taken at time of incident	DEF000113 - DEF000117
6.	Surveillance Videos	DEF000118
	<a href="https://bwbo.syncedtool.com/shares/folder/WWYmu5XyARY/">https://bwbo.syncedtool.com/shares/folder/WWYmu5XyARY/</a>	
7.	Safety Information Guidelines	DEF000119 – DEF000157
8.	Records received from Dr. Enrico Fazzini in response to Subpoena Duces Tecum	DEF000158 – DEF000165
9.	Records received from Nevada Pain Care in response to Subpoena Duces Tecum	DEF000166 – DEF000243
10.	Records and Imaging received from Las Vegas Radiology	DEF000244 – DEF000261

No.	Document Description	Bates
	in response to Subpoena Duces tecum	
11.	Records received from Sunset Pain Surgery Center in response to Subpoena Duces Tecum	DEF000262 – DEF000313
12.	Records received from East Desert Inn and Wellness Center in response to Subpoena Duces Tecum	DEF000314 – DEF000457
13.	Records received from Gold Medal Funding for Las Vegas Radiology in response to Subpoena Duces Tecum	DEF000458 – DEF000465
14.	Records received from Gold Medal Funding for Pueblo Medical Imaging in response to Subpoena Duces Tecum	DEF000466 – DEF000471
15.	Radiology Films received from Pueblo Medical Imaging in response to Subpoena Duces Tecum	DEF000472
16.	Plaintiff's Expert John Peterson's documents in response to Subpoena Duces Tecum	DEF000473 – DEF000613
17.	Jeffrey C. Wang, M.D.'s Curriculum Vitae, Fee Schedule and Testimony List	DEF000614 – DEF000729
18.	Jeffrey Wang, M.D.'s Comprehensive Medical Evaluation Report dated February 4, 2022	DEF000730 – DEF000734
19.	Eric S. Farbman, M.D.'s Curriculum Vitae, Fee Schedule and Testimony List	DEF000735 – DEF000746
20.	Eric S. Farbman, M.D.'s Independent Medical Review Report dated February 26, 2022	DEF000747 – DEF000751
21.	Robin Caulfield, NCARB's Curriculum Vitae, Fee Schedule and Testimony List	DE000752 – DE000765
22.	Robin Caulfield, NCARB's Rebuttal Report of Findings dated April 4, 2022	DEF000766 – DEF000798

Defendant reserves the right to utilize any document identified by any party.

(b) As to the following exhibits, the party against whom the same will be offered objects to their admission on the grounds stated:

(1) Set forth the plaintiff's exhibits and objections to them: N/A

(2) Set forth the defendant's exhibits and objections to them: N/A

(c) Electronic evidence: [State whether the parties intent to present electronic evidence for purposes of jury deliberations.]

The parties intend to use electronic evidence in the form of the surveillance footage of the incident.

(d) Depositions: [Indicate name of deponent and identify portions to be offered by pages and lines and the party or parties against whom offered.]

(1) Plaintiff will offer the following depositions:

N/A

(2) Defendant will offer the following depositions:

Defendant offers the deposition testimony of Plaintiff in its entirety (140 pp).

(e) Objections to depositions:

(1) Defendant objects to plaintiff's depositions as follows:

N/A

(2) Plaintiff objects to defendant's depositions as follows:

N/A

### VIII.

The following witnesses may be called by the parties at trial:

(a) Provide names and addresses of plaintiff's witnesses.

1. Aurelio Infante Landin, Plaintiff  
c/o Eric Blank Injury Attorneys  
7860 W. Sahara Avenue, Suite 110  
Las Vegas, Nevada 89117

Aurelio Infante Landin is the Plaintiff in this action and was an invited patron on Defendant's premises. This witness is expected to testify regarding the facts and circumstances surrounding the incident at issue in the instant case.

2. Cardenas Markets, LLC. Defendant  
c/o Bremer Whyte Brown, & O'Meara, LLP  
1160 N. Town Center Drive, Suite 250  
Las Vegas, NV 89144

Cardenas Markets, L.L.C., is the Defendant in this action and the owner of the premises of this instant action. This witness is expected to provide testimony as to the facts and circumstances surrounding this incident.



3. Adam Antflick, D.O.  
 Stephen A. Gephardt, M.D.  
 And/or Person(s) Most Knowledgeable (PMK) and/or Custodian of Records  
 Nevada Pain Care  
 7220 S. Cimarron Rd., Ste 270  
 Las Vegas, NV 89113

Adam Antflick, M.D. and Stephen A. Gephardt, MD, are pain management providers who treated Plaintiff for the subject slip and fall. This witness(es) may be expected to testify regarding, but not limited to, Plaintiff's care and treatment provided related to the subject incident as set forth in the related medical records and reports; the necessity of the same; causation of injuries to a reasonable degree of medical certainty and probability; the usual and customary charges for the services provided and the reasonableness for same; and any other matters within his knowledge.

4. Bhuvana P. Kittusamy, M.D.  
 And/or Person(s) Most Knowledgeable (PMK) and/or Custodian of Records  
 Las Vegas Radiology  
 7500 Smoke Ranch Rd., Suite 100  
 Las Vegas, NV 89128

Bhuvana P. Kittusamy, M.D., is a radiologist. This witness may be expected to testify regarding, but not limited to, Plaintiff's care and treatment provided related to the subject incident as set forth in the related medical records and reports; the necessity of the same; causation of injuries to a reasonable degree of medical certainty and probability; the usual and customary charges for the services provided and the reasonableness for same; and any other matters within his knowledge.

5. Glen S. Cochrane, D.C.  
 And/or Person(s) Most Knowledgeable (PMK) and/or Custodian of Records  
 East Desert Inn Wellness  
 1090 E. Desert Inn Rd., Suite 102  
 Las Vegas, NV 89109

Dr. Glen Cochrane, D.C., treated Plaintiff for pain in his neck and back due to injuries suffered at the subject accident. This witness(es) may be expected to testify regarding, but not limited to, Plaintiff's care and treatment provided related to the subject incident as set forth in the related medical records and reports; the necessity of the same; causation of injuries to a reasonable degree of medical certainty and probability; the usual and customary charges for the services provided and the reasonableness for same; and any other matters within his knowledge.

6. Enrico Fazzini, D.O., Ph.D, F.A.C.N.  
 And/or Person(s) Most Knowledgeable (PMK) and/or Custodian of Records  
 291 North Pecos Rd.  
 Henderson, NV 89074

Dr. Enrico Fazzini treated Plaintiff for pain localied to the shoulders but also radiates to the head due to injuries suffered at the subject incident. This witness(es) may be expected to testify regarding, but not limited to, Plaintiff's care and treatment provided related to the subject incident as set forth in the related medical records and reports; the necessity of the same; causation of injuries to a reasonable degree of medical certainty and probability; the usual and customary charges for the services provided and the reasonableness for same; and any other matters within his knowledge.

7. Eric Biesbroeck, M.D.  
 And/or Person(s) Most Knowledgeable (PMK) and/or Custodian of Records  
 Pueblo Medical Imaging  
 8551 W. Lake Mead Blvd., Suite 150  
 Las Vegas, NV 89128

Eric Biesbroeck, M.D., is the radiologist who interpreted Plaintiff's imaging at Pueblo Medical Imaging for an MRI for the date of service referenced above. This witness(es) may be expected to testify regarding, but not limited to, Plaintiff's care and treatment provided related to the subject incident as set forth in the related medical records and reports; the necessity of the same; causation of injuries to a reasonable degree of medical certainty and probability; the usual and customary charges for the services provided and the reasonableness for same; and any other matters within his knowledge.

8. John R. Peterson  
 RETAIL LITIGATION CONSULTANTS, LLC  
 6620 Buckskin  
 Las Vegas, Nevada 89108

Mr. Peterson is a retained expert and is a certified Safety and Health Manager. Mr. Peterson is expected to testify consistent with his report and may be supplemented in the future.

Mr. Peterson is expected to testify as to his expert opinion to a reasonable degree of professional certainty and probability based upon his inspection(s) of the subject premises, records and information reviewed, and his education, training, and professional experience within the construction and safety industry. This witness is expected to testify regarding his inspection of



the subject premises and consistent with his expert report and any supplements thereto, as well as with regard to any documents, tangible items, photos, or other physical evidence this witness utilized in preparing his report. This witness may be expected to examine and testify regarding his review of relevant records disclosed by any party to this case, case deposition testimony, any party responses to written discovery, and any additional documents that may be identified in Mr. Peterson's eventual reports, including but not limited to the injuries Plaintiff sustained in the subject trip-and-fall trauma related to any hazards and negligence identified by this witness as to Defendants and the subject premises.

Mr. Peterson is further expected to testify regarding a number of issues in this matter, including, but not limited to, liability and Defendant's compliance or lack thereof with applicable safety and building codes.

(b) Provide names and addresses of defendant's witnesses.

1. Aurelio Infante Landin  
c/o Eric R. Blank, Esq.  
David M. Moore, Esq.  
ERIC BLANK INJURY ATTORNEYS  
7860 W. Sahara Ave., Ste. 110  
Las Vegas, NV 89117

Mr. Landin is the Plaintiff in this action and is expected to testify as to his knowledge as to the facts and circumstances regarding the accident that forms the basis of this matter.

2. Cardenas Markets, LLC  
c/o Anthony T. Garasi, Esq.  
Madeline M. Arcellana, Esq.  
Ty M. Maynarich, Esq.  
BREMER WHYTE BROWN & O'MEARA LLP  
1160 N. Town Center Drive, Suite 250  
Las Vegas, Nevada 89144

Cardenas Markets, LLC is the Defendant in this action and is expected to testify as to its knowledge and understanding as to the facts and circumstances regarding the accident that forms the basis of this matter.

3. Person(s) Most Knowledgeable and/or Custodian of Records for  
Pueblo Medical Imaging  
5495 S. Rainbow Blvd., Ste. 203  
Las Vegas, NV 89118

1           The Person(s) Most Knowledgeable and/or Custodian of Records for Pueblo Medical  
2 Imaging is one of Plaintiff's treatment providers and is expected to testify as to the treatment  
3 and findings concerning care given to Plaintiff.

4           4.     Person(s) Most Knowledgeable and/or Custodian of Records for  
5                 Nevada Pain Care  
6                 7220 S. Cimarron Rd., Ste. 270  
7                 Las Vegas, NV 89113

8           The Person(s) Most Knowledgeable and/or Custodian of Records for Nevada Pain  
9 Care is one of Plaintiff's treatment providers and is expected to testify as to the treatment and  
10 findings concerning care given to Plaintiff.

11           5.     Person(s) Most Knowledgeable and/or Custodian of Records for  
12                 Enrico Fazzini, D.O., Ph.D., F.A.C.N.  
13                 291 North Pecos Rd.  
14                 Henderson, NV 89074

15           The Person(s) Most Knowledgeable and/or Custodian of Records for Enrico Fazzini, D.O. is  
16 one of Plaintiff's treatment providers and is expected to testify as to the treatment and findings  
17 concerning care given to Plaintiff.

18           6.     Person(s) Most Knowledgeable and/or Custodian of Records for  
19                 Las Vegas Radiology  
20                 7500 Smoke Ranch Rd., Ste. 100  
21                 Las Vegas, NV 89128

22           The Person(s) Most Knowledgeable and/or Custodian of Records for Las Vegas Radiology  
23 is one of Plaintiff's treatment providers and is expected to testify as to the treatment and findings  
24 concerning care given to Plaintiff.

25           7.     Person(s) Most Knowledgeable and/or Custodian of Records for  
26                 Sunset Pain Surgery Center  
27                 9120 W. Russell Rd., Ste. 100  
28                 Las Vegas, NV 89148

          The Person(s) Most Knowledgeable and/or Custodian of Records for Sunset Pain Surgery  
Center is one of Plaintiff's treatment providers and is expected to testify as to the treatment and  
findings concerning care given to Plaintiff.

          8.     Person(s) Most Knowledgeable and/or Custodian of Records for  
East Desert Inn Wellness

1090 E. Desert Inn Rd., Ste. 102  
Las Vegas, NV 89109

The Person(s) Most Knowledgeable and/or Custodian of Records for East Desert Inn Wellness is one of Plaintiff's treatment providers and is expected to testify as to the treatment and findings concerning care given to Plaintiff.

9. Person(s) Most Knowledgeable and/or Custodian of Records for  
CVS Pharmacy  
701 S. Carson St., #200  
Carson City, NV 89701

The Person(s) Most Knowledgeable and/or Custodian of Records for John R. Peterson is one of Plaintiff's treatment providers and is expected to testify as to the treatment and findings concerning care given to Plaintiff.

Defendant reserves the right to call and or utilize any witness identified by any party.

#### IX.

The attorneys or parties have met and jointly offer these three trial dates:

1. March 1, 2023
2. April 5, 2023
3. May 3, 2023

It is expressly understood by the undersigned that the court will set the trial of this matter on one of the agreed-upon dates if possible; if not, the trial will be set at the convenience of the court's calendar.

#### X.

It is estimated that the trial will take a total of 3-5 days.

#### APPROVED AS TO FORM AND CONTENT:

DATED 4<sup>th</sup> day of November, 2022.

**ERIC BLANK INJURY ATTORNEYS**

/s/ David M. Moore, Esq.

ERIC R. BLANK, ESQ.

Nevada Bar No. 6910

DAVID M. MOORE, ESQ.

Nevada Bar No. 8580

*Attorneys for Plaintiff*

DATED 4<sup>th</sup> day of November, 2022.

**BREMER WHYTE BROWN & O'MEARA  
LLP**

/s/ Ty M. Maynarich, Esq.

ANTHONY T. GARASI, ESQ.

Nevada Bar No. 11134

MADELINE M. ARCELLANA, ESE.

Nevada Bar No. 13816

TY M. MAYNARICH, ESQ.

Nevada Bar No. 14584  
*Attorneys for Defendant*

**XI.**

**ACTION BY THE COURT**

This case is set for jury trial on the stacked calendar on April 3, 2023 at the hour of 9:00 a.m.. Calendar call will be held on March 16, 2023 at 9:30 a.m. in courtroom 6B.

**DATED:** November 8, 2022

  

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**UNITED STATES DISTRICT JUDGE**

From: David Moore <[dmoore@ericblanklaw.com](mailto:dmoore@ericblanklaw.com)>

Sent: Friday, November 04, 2022 10:16 AM

To: Ty M. Maynarich <[tmaynarich@bremerwhyte.com](mailto:tmaynarich@bremerwhyte.com)>

Subject: Infante v. Cardenas

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\*\*\* This is an external email \*\*\*

Ty, here are my additions to the Joint Pretrial Order.

**David M. Moore**

**Attorney**

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